

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department on Disability Services

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Responsible Program or Office: Director of the Department on Disability Services	Number of Pages: Six
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Supersedes Policy Dated: DDS Human Rights Policy: September 10, 2007	
Cross References and Related Policies: Psychotropic Medications; Positive Behavior Support; Restrictive Procedures; Affirmation, Promotion and Protection of Individual Rights and Freedoms; Office of Rights and Advocacy; Human Rights Definitions	
Subject: Human Rights Review Policy	

1. PURPOSE

The purpose of this policy is provide information about the oversight role of the Department on Disability Services pertaining to the human rights of individuals receiving services as part of the Department on Disability Services (DDS) service delivery system, and to provide guidance to providers in developing and operating Human Rights and Behavior Support Committees as part of their organizational structure.

2. APPLICABILITY

This policy applies to all Department on Disability Services (DDS) employees, subcontractors, providers/vendors, consultants, volunteers, and governmental agencies who provide services and supports on behalf of individuals with disabilities receiving services as part of the DDS service delivery system.

3. AUTHORITY

The authority for this policy is established in the Department on Disability Services as set forth in D.C. Law 16-264, the "Department on Disability Services Establishment Act of 2006," effective March 14, 2007 (D.C. Official Code § 7-761.01 *et seq.*); and D.C. Law 2-137, the "Mentally Retarded Citizens constitutional Rights and Dignity Act of 1978," effective March 3, 1979 (D.C. Official Code § 7-1301.01 *et seq.*).

4. POLICY

It is the policy of the Department on Disability Services to assure that safeguards are established in order to protect and promote the basic human rights and freedoms of all individuals receiving services as part of its service delivery system. The purpose of this policy is to assure that all providers who deliver supports and services on behalf of individuals with disabilities served by the Department on Disability Services shall establish and maintain a Human Rights Committee and Behavior Support Committee that review policies, practices and rights violations and

restrictions on a regular basis. Both the Behavior Support and Human Rights Committee shall ensure that individuals or their guardians/substitute decision maker provide informed consent for the use of psychotropic medications or other restrictive controls.

5. **RESPONSIBILITY**

The responsibility for this policy is vested in the Office of the Director of the Department on Disability Services and the implementation for this policy rests with the Office of Rights and Advocacy.

6. **STANDARDS**

In order to ensure compliance with this policy, below are the standards that govern how providers/vendors will review and respond to rights-related issues for all individuals receiving services as part of their contract with the Department on Disability Services:

Provider Human Rights Committee

- DDS shall require that all providers establish a volunteer Human Rights Committee within their respective organizations that meets no less than six times a year;
- Each Human Rights Committee will be required to establish operating procedures;
- Several providers can join together to form a single Human Rights Committee that safeguards the rights of individuals receiving services in the participating agencies;
- All members shall receive training on human rights and freedoms, their agency's grievance procedure, DDS's grievance procedure, and applicable policies and procedures that relate to their charge (e.g., behavior support and restrictive control policies and procedures; psychotropic medication policies and procedures; individual rights and freedoms policies and procedures, incident management policies and procedures; etc.). Accommodations shall be made to assure the full participation of Committee members with disabilities;
- Until September 30, 2008, each Human Rights Committee shall have at least 51% of its membership composed of individuals who are not paid by the agency. These members shall include individuals with disabilities, family members, advocates and community members. 33% of the total membership of each Human Rights Committee shall be individuals with disabilities and family members. Members of the Human Rights Committee shall not serve concurrently as a member of the provider agency's Board of Directors or in an executive leadership role within the provider agency;
- No later than October 1, 2008, each Human Rights Committee shall include an attorney or para-legal, an allied health professional and a Masters or Doctoral-level psychologist. One-third of the total membership of each Human Rights Committee shall be individuals with disabilities and family members. Community members and advocates may also be recruited as members of the Human Rights Committee. Provider agency staff, Board of Directors members and any other individuals receiving payment from the provider agency are excluded from serving on the Human Rights Committee;
- DDS shall monitor the work of Human Rights Committees during the Rights Protection and Promotion review, as part of the Basic Assurance monitoring visits and through other reviews of incidents, investigations and service delivery;

- Human Rights Committees shall review any allegations of rights violations, behavior plans with restrictive controls, investigations of serious reportable incidents and their agency's tracking/trending analysis of incidents; and
- Human Rights Committees shall review policies, procedures and practices related to rights as needed.

Provider Behavior Supports Committee

- Each Human Rights Committee shall have a Behavior Support Committee (BSC) to review and approve all behavior plans, any rights restrictions and all use or proposed use of restraints, psychotropic medication or one-to-one staffing;
- Behavior Support Committees shall meet as often as is necessary to review all behavior plans based on an agree-upon review schedule set by the ISP team or the Committee itself;
- Several providers can join together to form a single Behavior Support Committee that safeguards the rights of individuals receiving services in the participating agencies;
- The Behavior Support Committee shall forward the minutes from its meeting to the Human Rights Committee for review;
- The Human Rights Committee shall review and approve all behavior plans that include restrictions or restrictive controls at least annually and more often if necessary, following review by the Behavior Support Committee;
- Individuals with behavior plans shall be invited to meetings of either committee when their behavior plan is being discussed; and
- Representatives from other service providers who support individuals who are being reviewed shall be invited to meetings when behavior plans are being discussed, as appropriate and necessary to assure programmatic coordination.

DDS Reporting Requirements for Providers Related to Their Human Rights and Behavior Supports Committees

- All providers shall submit the minutes of their Human Rights and Behavior Support Committees to DDS's Office of Rights and Advocacy and will forward any behavior plans that need to be reviewed, as per the Behavior Support and Restrictive Control Policy within 10 working days of each meeting. Minutes shall be written in plain English.

8. PROCEDURES

The purpose of this section is to delineate DDS oversight responsibilities that pertain to human rights issues for individuals receiving services as part of the Department on Disability Services' (DDS) service delivery system.

Roles and Responsibilities

DDS Human Rights Advisory Committee Co-Chairs: The individuals responsible for co-chairing each HRAC meeting, responsible for assuring that the Committee adheres to all policies and procedures germane to DDS's compliance with all Human Rights statutes, rules and policies.

DDS HRAC Staff Liaison: The administrative staff member responsible for ensuring that the Committee members receive the administrative support they need, including, but not limited to, keeping minutes of all meetings and conference calls, documenting Committee decisions, tracking follow-up on specific allegations made by individual or their circle of support, preparing

summaries from the minutes of provider agency human rights committees and behavior support/RCRC meetings, and developing charts and other tools to facilitate the discharge of Committee functions. The HRAC Staff Liaison will be a staff member in the Office of Rights and Advocacy.

The following are the procedures that DDS implements in order to assure that best practices are employed in maintaining individual rights and freedoms and that all allegations of human rights violations are properly reviewed and resolved consistent with DDS directives.

DDS Human Rights Advisory Committee

1. The Human Rights Advisory Committee (HRAC) shall meet monthly to review summaries of activities from provider agency Human Rights Committees and referrals from DDS's Restrictive Control Review Committee (RCRC), as specified on the chart on page six of this policy. The Office of Rights and Advocacy staff shall prepare meeting summaries. The HRAC also shall review other reports of alleged human rights violations or due process requests that come through the Office of Rights and Advocacy that come from any source.
2. The HRAC staff liaison shall send out meeting notifications to all relevant parties in order to ensure that they are in attendance at the next scheduled HRAC.
3. Relevant parties involved with circumstances being presented will be asked to attend to present information and respond to questions.
4. The HRAC staff liaison shall distribute minutes from the previous Committee meeting and the agenda for the next meeting prior to each scheduled meeting.
5. At the beginning of each scheduled meeting, the HRAC Co-Chair shall entertain motions for additions or changes to the agenda. Any change to the agenda requires a majority vote from the Committee members present at that meeting.
6. The HRAC Co-Chair facilitates discussion to:
 - Pose questions related to potential human rights violations or issues;
 - Identify any systemic issues that arise for the provider;
 - Identify any systemic issues for DDS;
 - Identify any systemic issues involving other government agencies; and
 - Finalize recommendations.
7. The HRAC, through its staff liaison, shall issue to the relevant parties any HRAC recommendations and decisions within five business days from the conclusion of the HRAC meeting.
8. The relevant party shall follow up on recommendations made by the HRAC and report back as required until the issue is resolved.
9. A representative from the Restrictive Control Review Committee (RCRC) shall be in attendance at each HRAC meeting to address any relevant issues from the RCRC meeting. The HRAC will review and approve RCRC recommendations or request additional information from the RCRC representative.
10. The HRAC shall make Quality Improvement recommendations based on their reviews to DDS's Quality Improvement Committee and Provider Agency Directors in areas such as staff training, risk management, data managements, positive behavioral support, policy and procedure standards, et al.

DDS Restrictive Control Review Committee

1. The Restrictive Control Review Committee (RCRC) shall meet no less than 10 times a year to review minutes/reports from provider agency Behavior Support Committees (BSCs) and/or

- actual behavior support plans (BSPs), if there are conflicting opinions, as part of due process, and as requested, as specified on the chart on page six.
2. The RCRC is comprised of no more than nine voting members, including at least one individual receiving services from DDS, one family member of an individual receiving services from DDS, a residential provider, a vocational provider, an advocate, a psychologist or psychiatrist with expertise in behavioral supports, and one or more nurses or physicians.
 3. The RCRC shall review all uses of restrictive controls as they pertain to an individual or review the decisions/actions of the agency BSCs or, when required, directly review the actual BSP. BSPs that will be directly reviewed are:
 - a. Plans with approved physical restraint or other restrictive physical procedures
 - b. Plans about which the individual or family do not agree with the recommendations of the team, as part of due process.
 - c. People with one-to-one support for behavioral reasons
 - d. People taking three or more psychotropic medications
 - e. People for whom there are frequent 911 calls due to behavior
 - f. People for whom concern has been raised for related reasons and who have come to the attention of DDS, including people with complex dual diagnoses
 4. The RCRC shall review all requests for one-to-one staffing to ensure that it is the least restrictive alternative and that there is a plan, as appropriate, for reductions in one-to-one support. This review shall follow the review by a pre-referral team consisting of an individual's service coordinator following an ISP approval process, a nurse or physician, a finance designee, and a licensed psychologist, if the request is for behavioral reasons;
 5. The RCRC shall make recommendations for policies, procedures, practices and/or strategy changes that lead to reduced restrictive controls and more positive behavioral supports;
 6. The RCRC shall make recommendations to the DDS Director for corrective actions and technical assistance to providers who inappropriately utilize restrictive controls;
 7. The RCRC shall provide minutes of its monthly meetings to the HRAC and send a representative to all HRAC meetings.

Appeal Rights

Any individual served by DDS and its providers may appeal the decision of the HRAC and the RCRC to the Director of the Department on Disability Services. The Director will conduct a fact-finding process to attempt to resolve the issue. The individual also has the right to file a request for Fair Hearing with the Director of DDS and/or the Director of the Medical Assistance Administration.

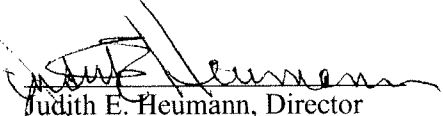
Human Rights and Behavior Support Review Requirements

The table below indicates responsibilities assigned to each committee referenced in this policy.

Review Requirements	Agency BSC Review	Agency HRC Review	DDS RCRC Review*	DDS HRAC Review*
Behavior Plan that includes only positive behavior supports and the person/guardian agrees with the plan	X			
Behavior Plan that includes only positive behavior supports and the person/guardian disagrees with the plan	X	X		

Behavior Plan that includes rights restriction(s)	X	X	X*	X*
Behavior Plan that includes restrictive or intrusive controls or techniques, including the use of restraint, psychotropic medication or one-to-one staffing	X	X	X*	X*
Potential or alleged rights violations		X		X*
Investigations of serious reportable incidents		X		X*
Tracking and trending analysis of incidents		X		
Due process requests		X		X
Availability and effectiveness of due process				X
Policies, procedures and practices that promote and protect people's rights and those that may create rights restrictions		X		
Protocols for identifying, reporting, documenting, investigating and reviewing incidents		X		
Requests to conduct research and experimentation		X		
Rights restriction/violation data			X	X
Protocols for substitute decision-making and guardianship		X		
Requests for changes in placement to a more restrictive, less independent setting				X
Review of one-to-one staffing requests	X	X	X	X
Makes Quality Improvement (QI) recommendations to DDS's QIC and Provider Agency Director.		X		X

* Most DDS HRAC and RCRC reviews will be reviews of minutes and data from Provider Agency or other meetings.


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1-9-08
Date